IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No.3118 OF 2005

Date of decision : 25.8.2006.

Hari Singh Mann, Advocate and others .....Petitioners

versus

Hon'ble Mr.Justice P.K.Palli (Retd.) and others .....Respondents

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.H.S.Mann, petitioner in person and
on behalf of petitioner No.2.

Mr.Ravneet Singh, respondent No.3, for self and
on behalf of respondent No.3.

ORDER

HEMANT GUPTA, J. (oral)

The challenge in the present revision petition is to the order dated 10.5.2005, passed by the learned District Judge, Ropar, arising out of the Objection petition filed by the petitioner under Section 34 of the Arbitration and Conciliation Act, 1996, for setting aside certain parts of Award dated 18.7.2003, passed by the Arbitrator appointed with the consent of the parties.

On 10.3.2003, with the consent of the parties, an Arbitrator was appointed. The Arbitrator has passed an award dated 18.7.2003. Aggrieved against the said award, the petitioners herein, have filed the objections before this Court and also before the learned District Judge. Petitioners herein moved an application before this Court for permission to withdraw the objections filed against the award rendered by the Arbitrator, with a permission to continue with the objections filed in the Court of learned District Judge, Ropar. During the course of hearing in the said

petition, petitioner No.1 has made a statement that so far as he is concerned, he will not produce any evidence in support of the objections filed by him. This order was passed by this Court on 7.5.2004. The relevant extract of the said order is reproduced as under:-

> "Sh.H.S.Mann has submitted that so far as he is concenred, he will not produce any evidence in support of the objections filed by him. He has submitted that a direction be given to Additional District Judge to decide the objections expeditiously."

The order dated 7.5.2004 was challenged by the petitioner before the Hon'ble Supreme Court of India by filing a Special Leave Petition. The said Special Leave Petition was dismissed by the Hon'ble Supreme Court of India vide orders dated 11.2.2005, which is reproduced as under:-

> "The Special Leave Petition is dismissed. However, petitioner would be at liberty to argue on the objections, already filed or he may file additional objections. It goes without saying that District Judge shall decide the objections without influencing himself by any of the observations made by the High Court. The District Judge may decide the objections expeditiously."

The petitioner has sought to argue that his stand before this Court on 7.5.2004, was that he will not produce any oral evidence, but documentary evidence is required to be produced by him. It is argued that dismissal order of the said revision petition, passed by this Court is merged with the order of the Hon'ble Supreme Court. In terms of the Hon'ble Supreme Court order, the District Judge is deciding the objection without influencing himself by order passed by this Court. Therefore, the

petitioners have right to file objections and right to lead evidence in support of the objections filed by them.

However, I do not find any merit in the arguments raised by the learned counsel for the petitioners. The petitioner has given statement that "he will not produce any evidence" i.e. documentary or oral evidence. The said part of the order of this Court on the statement fo the petitioner itself, was affirmed by the Hon'ble Supreme Court of India when the SLP filed by the petitioners was dismissed. However, opportunity was given to the petitioners to file additional objection. The said order is not indicating of the fact that petitioner was given opportunity to produce documentary or oral evidence. The learned District Judge is deciding the objections without influencing himself by any of the observations made by the High Court. The observations which are not to be taken into consideration are on the merits of the controversy between the parties and not in the question of right to the petitioner to lead evidence.

In view of the above, I do not find any illegality or irregularity in the orders passed by the learned District Judge, which may warrant interference by this Court in exercise of its revisional jurisdiction.

Dismissed.

(HEMANT GUPTA)
August 25, 2006. **JUDGE**

**mohinder*